

## **ARTICLE VII**

### **EXCEPTIONS AND MODIFICATIONS**

#### **SECTION**

- 7.010 Scope
- 7.020 Nonconforming Uses
- 7.030 Exceptions to Height Limitations
- 7.040 Lots of Record
- 7.050 Exceptions to Front Setback Requirements
- 7.060 Absolute Minimum Lot Size

#### **7.010 SCOPE**

Article VII, of this resolution, is devoted to providing for the necessary exceptions and modifications to the supplementary and specific zoning district provisions provided in Article IV Article V, respectively.

#### **7.020 NONCONFORMING USES**

It is the intent of this resolution to recognize that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this resolution is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this resolution. It is also the intent of this resolution to so administer the elimination of nonconforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings, and structures existing at the time of the passage of this resolution or any amendment thereto shall be allowed to remain subject to the following provisions:

- A. An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same or higher classification provided, however, that establishment of another nonconforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board may require in order to protect the area.
- B. A nonconforming use of land shall be restricted to the area occupied by such use as of the effective date of this resolution. A nonconforming use of a building or buildings shall not be enlarged to additional land after the effective date of this resolution.
- C. When a nonconforming use of any structure or land has been discontinued for a period of six (6) months, it shall not be reestablished or changed to any use not in conformity with the provision of this resolution. Immediately upon the removal of a nonconforming mobile home or discontinuance of a nonconforming mobile home park, the nonconformity of such structure and use of land shall lapse. This provision shall not apply when the structural condition of a mobile home is such that replacement of another mobile home alleviates an unsafe and unsanitary living environment, as certified by a Building Official.

- D. Any nonconforming building or nonconforming use which is damaged by fire, flood, wind, or other act of God, may be reconstructed and used as before, if it be done within six (6) months of such damage, unless damaged to the extent of more than fifty (50) percent of its fair market value immediately prior to damage, in which case any repair or reconstruction shall be in conformity with the provisions of this resolution.
- E. Any nonconforming building or building housing a nonconforming use shall not be structurally altered except in conformance with the provisions of this resolution. These provisions shall not be construed to prevent normal maintenance and repairs, or alterations required for structural safety.

#### **7.030 EXCEPTIONS TO HEIGHT LIMITATIONS**

The height limitations of this resolution shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, silos and aerials.

#### **7.040 LOTS OF RECORD**

The following provisions shall apply to all existing lots of record:

- A. In those cases wherein real property consisting of one or more lots of official record as of the time of the adoption of this Resolution is insufficient in size in order for it to conform to this Resolution, these lots of record shall be exempt from the requirements of this Resolution respecting size. Notwithstanding the foregoing language, the exemption granted hereby shall not apply where two (2) or more nonconforming adjacent lots of record were under the same ownership as of the date of the adoption of this Resolution and less than all of the said land is conveyed after November 18, 1991, and, provided, further, in no event shall a building permit be issued with respect to a lot of record less than one (1) acre in size.
- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this resolution, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.

#### **7.050 EXCEPTIONS TO FRONT SETBACK REQUIREMENTS**

The front setback requirement of this resolution for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

#### **7.060 ABSOLUTE MINIMUM LOT SIZE**

In no case shall the Director of the Cheatham County Building Department or the Cheatham County Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building line is less than seventy-five (75) feet and/or whose total lot area is less

than seventy five hundred (7,500) square feet.